

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**CRIMINAL CASE NO. 3:08cr233**

**UNITED STATES OF AMERICA,**

**vs.**

**JOSE PERALTA, MIGUEL LORIA,  
and RICHARD VARELA.**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**ORDER**

**THIS MATTER** is before the Court *sua sponte* to continue the case.

On November 19, 2008, the Defendants were indicted in a nine-count Bill of Indictment and charged with (1) one count of false claims conspiracy, in violation of 18 U.S.C. § 286; (2) one count of conspiracy, in violation of 18 U.S.C. § 371; (3) three counts of aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1); (4) one count of money laundering conspiracy, in violation of 18 U.S.C. § 1956(h); and (5) three counts of money laundering, in violation of 18 U.S.C. §§ 1957(a) and 2. An initial appearance was held for each Defendant on November 21, 2008. The Defendants were arraigned on December 4, 2008, at which time each Defendant first appeared through counsel. At that time, the Defendants' case was placed on the Court's

February 9, 2009 calendar for trial. [Docs. 13, 15, 17]. On December 18, 2008, a corrected Scheduling Order was entered with respect to each Defendant, setting this case on the Court's December 29, 2008 calendar for trial. [Docs. 22, 23, 24].

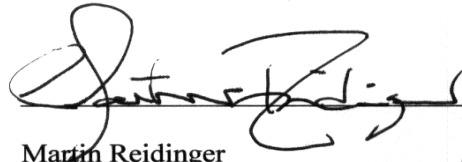
"Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se." 18 U.S.C. § 3161(c)(2). The Defendants here have not so consented and thus, their trial may not start less than thirty days from their appearance with counsel.

In addition, the Court finds that counsel would not have an adequate opportunity to prepare for trial, taking into account the exercise of due diligence. The Court therefore finds that a failure to grant the continuance "would unreasonably deny the defendant[s] . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." 18 U.S.C. § 3161(h)(8)(B)(iv).

For the reasons stated herein, the ends of justice served by the granting of the continuance outweigh the best interests of the public and the Defendants in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

**IT IS, THEREFORE, ORDERED** that the above-captioned case is  
**CONTINUED** from the December 29, 2008 term in the Charlotte Division.

Signed: December 19, 2008

  
Martin Reidinger  
United States District Judge

